

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 507

BY BUSINESS COMMITTEE

AN ACT

RELATING TO THE IDAHO CONTRACTOR REGISTRATION ACT; AMENDING SECTION 54-5210, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO AN APPLICATION FOR REGISTRATION AS A CONTRACTOR; AND AMENDING SECTION 54-5215, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BOARD'S AUTHORITY TO INVESTIGATE AND DISCIPLINE AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-5210, Idaho Code, be, and the same is hereby amended to read as follows:

54-5210. APPLICATION FOR REGISTRATION. (1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the board and which shall include the following information pertaining to the applicant:

(a) Social security number for natural persons or employer tax identification number for other persons;

(b) The name and address under which the applicant conducts business;

(c) The name and address of each:

(i) Principal, member, and partner, shareholder, or any in, and officer of, the applicant; and

(ii) Other person claiming an twenty-five percent (25%) or greater ownership interest in the business entity for which registration is being applied for applicant;

(d) A certificate issued by an insurance company authorized to do business in the state of Idaho or other satisfactory proof that the applicant has procured and has in effect worker's compensation insurance or a statement by the contractor as to why such certificate or coverage is not required for the applicant;

(e) A certificate issued by an insurance company authorized to do business in the state of Idaho that the applicant has procured and has in effect a general liability policy, including products and completed operations insurance covering the applicant's construction operations in the sum of not less than three hundred thousand dollars (\$300,000) single limit. The name of the insurance company, the insured and policy number shall be made available only to persons or their insurers stating that they possess a claim against the contractor;

(f) A statement of the type of construction to be undertaken by the applicant, or such other information as may be required by the board pursuant to administrative rules adopted by the board; and

(g) A statement that confirming whether the applicant and each principal, member, partner, shareholder or any other person claiming an ownership interest in the business entity for which registration is being applied for herein has never been denied, surrendered or had

~~revoked a contractor's license or registration privilege referenced in paragraph (c) of this subsection and each contractor in which the applicant or any such person has been a principal, member, partner or officer, or in which the applicant or any such person has claimed a twenty-five percent (25%) or greater ownership interest, has ever voluntarily surrendered a contractor registration, license or similar authorization, or had such registration, license or authorization limited, denied or disciplined by this or any other another state or, if a license or registration privilege has been denied, surrendered or revoked in this or any other state, an explanation of any such denial, surrender or revocation jurisdiction. The applicant shall explain each instance of surrender, limitation, denial or discipline.~~

(2) Along with such application, the applicant shall submit a registration fee as may be set by the board to cover its administrative and enforcement costs, not to exceed one hundred fifty dollars (\$150) per year.

(3) An application for registration that has been denied by the board shall be considered a contested case as provided for in chapter 52, title 67, Idaho Code, and shall be subject to the provisions of that chapter as well as the administrative rules adopted by the board governing contested cases.

SECTION 2. That Section 54-5215, Idaho Code, be, and the same is hereby amended to read as follows:

54-5215. AUTHORITY TO INVESTIGATE AND DISCIPLINE ~~—SUSPENSION OR REVOCATION OF REGISTRATION.~~ (1) The board may investigate any person engaged in contracting within the state of Idaho, or any person believed to have acted as a contractor without being duly registered as required by this chapter. Upon receipt of a written complaint from ~~a person~~ anyone who claims to have been injured or defrauded by such person, or upon information received by the board, the board shall ~~perform an investigation of~~ investigate the facts alleged against such person. If the board investigation reveals that the facts alleged or received are sufficient to proceed with a formal action, the board may authorize the filing of an administrative complaint against such person and may seek injunctive relief prohibiting such person from engaging in construction.

(2) The board ~~shall have the authority~~ may refuse to issue or renew a registration and may issue informal ~~letters of~~ and formal reprimands, suspend or revoke a registration, impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000), ~~and~~ and recover the costs and fees incurred in an investigation and prosecution, ~~or to issue a formal reprimand against any registered contractor if, after an opportunity for a hearing, if~~ the board determines that:

(a) A contractor has violated any of the provisions of this chapter including, but not limited to, failure to keep current or provide insurance coverage as required by this chapter;

(b) A contractor has violated any of the provisions of chapter 6, title 48, Idaho Code, relating to consumer protection including, but not limited to, making fraudulent misrepresentations to consumers;

(c) A contractor employed fraud or deception, made a misrepresentation or misstatement, or employed any unlawful means in applying for or securing registration as a contractor;

(d) A contractor employed fraud or deception, made a misrepresentation or misstatement, or employed any unlawful means in applying for or securing a building permit or other permits for construction of any type;

(e) A contractor failed to pay the required fee for registration as provided in this chapter;

(f) A contractor has been convicted of or has engaged in conduct constituting a violation of public laws, ordinances or rules of this state, or any subdivision thereof, relevant to contracting, reflecting on the registered contractor's ability or qualifications to continue contracting for other persons, and making the registered contractor a threat to the public safety, health or well-being;

(g) A contractor has engaged in any other conduct whether of the same or a different character than hereinabove specified ~~which~~ that constitutes dishonest or dishonorable dealings;

(h) A contractor was grossly negligent or reckless in his conduct in the performance of construction. For purposes of this chapter, conduct is grossly negligent or reckless if, when taken as a whole, it is conduct ~~which~~ that substantially fails to meet the generally accepted standard of care in the practice of construction in Idaho. In proceedings authorized by the provisions of this section, there is a rebuttable presumption that, to the extent incorporated by board rule, the residential construction standards of the national association of state contractors licensing agencies (NASCLA) states the generally accepted standard of care in the practice of residential construction in Idaho;

(i) ~~A contractor had a license, registration or certification revoked, suspended or refused or any person identified in section 54-5210(1)(c), Idaho Code, voluntarily surrendered a registration, license or similar authorization issued by this or another state, territory, incorporated municipality, county, alternative form of local government, or other municipal or political corporation or subdivision of this or another state, or jurisdiction, had such registration, license or authorization limited, denied or disciplined by this or another state or jurisdiction,~~ omitted such information from any application to the board, or failed to divulge such information when requested by the board;

(j) A contractor has been adjudged mentally incompetent by a court of competent jurisdiction; or

(k) A contractor interfered with an investigation or disciplinary proceeding by a willful misrepresentation of facts or by the use of threats or harassment against any person to prevent such person from providing evidence in a disciplinary proceeding, investigation or other legal action instituted in accordance with this chapter.

(3) A contractor whose registration has been revoked or suspended shall be required to return his certificate of registration within the time determined by the board ~~or~~ and, upon a failure to do so, shall be liable for civil penalties as set by the board but not to exceed fifty dollars (\$50.00) per day for each day the certificate is not returned after the expiration of the period allowed.

1 (4) ~~The suspension or revocation of a registration shall be considered~~
2 ~~a contested case as provided for in~~ Any disciplinary proceedings undertaken
3 pursuant to this chapter shall be conducted consistent with and be subject to
4 the provisions of chapter 52, title 67, Idaho Code, and shall be subject to
5 ~~the provisions of that chapter as well as~~ the administrative rules adopted by
6 the board governing contested cases.